

BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

IN THE MATTER OF:)	Case No.: DO-10-0012A
)	
LUCINDA MICHEL, D.O.)	FINDINGS OF FACT,
Holder of License No. 4314)	CONCLUSIONS OF LAW, AND
)	ORDER FOR PROBATION
)	
For the practice of osteopathic medicine in)	
the State of Arizona)	

On December 30, 2009, the Arizona Board of Osteopathic Examiners ("Board") received notice from Lucinda Michel, D.O. ("Respondent") on her renewal of possible unprofessional conduct. Respondent was notified of this complaint on February 3, 2009. On February 25, 2009, the Board received Respondent's response to the complaint.

On May 9, 2011, the Board noticed Respondent that the Board invited her to appear at Investigative Hearing of this matter on July 30, 2011, and provided Respondent with the investigative materials, pursuant to A. R.S. § 32-3206. Respondent received those on May 11, 2011.

On July 30, 2011, the Board conducted the Investigative Hearing. Respondent appeared and was not represented by counsel.

After hearing testimony and considering the documents and evidence submitted, the Board voted to enter the following Findings of Fact and Conclusions of Law, and Order for Probation.

JURISDICTIONAL STATEMENTS

1. The Board is empowered, pursuant to A.R.S. § 32-1800 et seq., to regulate the practice of osteopathic medicine in the State of Arizona, and the conduct of the persons licensed, registered, or permitted to practice osteopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 4314 issued by the Board for the practice of osteopathic medicine in the State of Arizona.

FINDINGS OF FACT

3. On February 12, 2008, Respondent was arrested and charged for criminal traffic violation, DUI/APC; BAC over .08 within 2 hours of driving, Extreme DUI (BAC over .20), and failure to control speed to avoid collision.

4. On April 28, 2008, Respondent pled guilty to Driving or Being in Actual Physical Control with an Alcohol Concentration of .20 or More Within Two Hours of Driving or Being in Actual Physical Control, a Class 1 Misdemeanor, with agreement that sentencing enhancement for Extreme DUI was withdrawn.

5. The Court required Respondent to report to and complete Screening and Assessment Services ("SAS") for substance abuse. The April 28, 2008 form does not specify a date for reporting. On October 21, 2008, Respondent was cited for contempt of court for not having completed the SAS.

6. On November 27, 2009, Respondent was cited for an undisclosed traffic violation and was arrested on the outstanding warrant. As a condition of dismissing the November 27, 2009 charges, Respondent was ordered to complete the SAS no later than December 8, 2009.

7. Respondent was again cited for contempt of court when she failed to complete the SAS. The second warrant was issued on April 20, 2010, and was still outstanding on July 30, 2011 at the time of the Investigative Hearing before the Board.

8. On January 25, 2011, Respondent was evaluated for possible addiction. That report concluded her alcohol abuse was, at the time of the report, in full remission, but recommended a period of monitoring.

CONCLUSIONS OF LAW

7. The conduct described above is a violation of unprofessional conduct pursuant to A.R.S. § 32-1854 (6), which states "Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard."

8. The conduct described above is a violation of unprofessional conduct pursuant to A.R.S. § 32-1854 (38), which states "Any conduct or practice that endangers the public's health or may reasonably be expected to do so."

ORDER

Pursuant to the authority vested in the Board,

IT IS HEREBY ORDERED that Lucinda Michel, D.O, holder of osteopathic medical License number 4314 shall have notified the Board's Executive Director no later than Tuesday, August 2, 2011, 1) that the outstanding warrant has been cleared by the Phoenix City Police / Phoenix Municipal Courts; 2) the dates the court-ordered substance abuse screening (SAS) has been scheduled to be done, and 3) documentation of successful completion of the SAS within three days of completion. In the event Dr Michel has not completed the SAS within 90 days of the effective date of this Order, she shall submit in writing the reason for not doing so.

IT IS HEREBY FURTHER ORDERED that Lucinda Michel, D.O, holder of osteopathic medical License number 4314 is placed on **PROBATION for a period of Five (5) Years** from the effective date of this Order, with the following terms:

1. **Practice of medicine:** Respondent may practice medicine without restriction.
2. **Participation in Monitored Aftercare:** Respondent shall promptly participate in the Board's monitored aftercare program. As part of participation, Respondent shall cooperate with Board Staff.

1 3. **12 Step or Self-Help Group Meetings:** Respondent shall participate in 12-step
2 meetings or other self-help group meetings appropriate for alcohol/substance abuse and
3 approved by Board Staff. Respondent shall attend a minimum of three meetings each week
4 during the first year of this Order, and a minimum of two meetings each week in subsequent
5 years. The log of attendance at those meetings shall be initialed by the meeting leader.

6 4. **Board Staff Approved Primary Care Physician:** Respondent shall promptly
7 obtain a primary care physician ("PCP") and shall submit the name of the physician in writing to
8 Board Staff for approval. The PCP shall not be in the same office practice as the Respondent,
9 nor related to the Respondent by blood or marriage. The PCP shall be in charge of providing
10 and coordinating Respondent's medical care and treatment. Except in an emergency,
11 Respondent shall obtain medical care and treatment only from the PCP and from health care
12 providers to whom Respondent is referred by the PCP. Respondent shall request that the PCP
13 document all referrals in the medical record. Respondent shall promptly inform the PCP of
14 Respondent's rehabilitation efforts and provide a copy of this Agreement to the PCP.
15 Respondent shall also inform all other health care providers who provide medical care or
16 treatment that Respondent is under this Order. For purposes of this Order, "emergency"
17 means a serious accident or sudden illness that, if not treated immediately, may result in a
18 long-term medical problem or loss of life.

19 5. **Medication:** Except in an emergency, Respondent shall take no medication
20 unless the PCP or other health care provider to whom the PCP refers Respondent prescribes the
21 medication. In the case of over-the-counter medications, Respondent shall provide to his PCP a
22 list of over-the-counter medications currently taken; PCP shall review and approve those and
23 recommend any new medications needed. Respondent shall not self-prescribe any
24 medication. For purposes of this Order, "medication" means a prescription-only drug,
25 controlled substance, and over-the-counter preparation, other than plain aspirin, plain
ibuprofen, and plain acetaminophen.

1 6. If a controlled substance is prescribed, dispensed, or is administered to
2 Respondent by any person other than the PCP, Respondent shall notify the PCP in writing
3 within 48 hours and notify the Board staff immediately. The notification shall contain all
4 information required for the medication log entry specified in paragraph 7. Respondent shall
5 request that the notification be made a part of the medical record. This paragraph does not
6 authorize Respondent to take any medication other than in accordance with paragraph 6.

7 7. **Medication Log:** Respondent shall maintain a current legible log of all
8 medication taken by or administered to Respondent, and shall make the log available to Board
9 Staff upon request. For medication (other than controlled substances) taken on an on-going
10 basis, Respondent may comply with this paragraph by logging the first and last administration
11 of the medication and all changes in dosage or frequency. The log, at a minimum, shall include
12 the following:

- 13 a. Name and dosage of medication taken or administered;
- 14 b. Date taken or administered;
- 15 c. Name of prescribing or administering physician;
- 16 d. Reason medication was prescribed or administered.

17 This paragraph does not authorize Respondent to take any medication outside the parameters
18 of this Order.

19 8. **No Alcohol or Poppy Seeds:** Respondent shall not consume alcohol or any
20 food or other substance containing poppy seeds or alcohol. It is Respondent's responsibility to
21 be aware of and avoid alcohol used in personal hygiene products or in the preparation of food
22 or drink.

23 9. **Biological Fluid Collection:** During all times that Respondent is physically
24 present in the State of Arizona and such other times as Board Staff may direct, Respondent
25 shall promptly comply with requests from Board Staff to submit to biological fluid collection. If
Respondent is directed to contact an automated telephone message system to determine when
to provide a specimen, Respondent shall do so within the hours specified by Board Staff. For

the purposes of this paragraph, in the case of an in-person request, "promptly comply" means "immediately". In the case of a telephonic request, "promptly comply" means that, except for good cause shown, Respondent shall appear and submit to specimen collection not later than two hours after telephonic notice to appear is given. The Board in its sole discretion shall determine good cause. The Board staff may require the collection to be observed or witnessed.

10. Respondent shall provide Board staff in writing with one telephone number that shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to biological fluid collection. For purposes of this section, telephonic notice shall be deemed given at the time a message to submit is left at the contact telephone number provided by Respondent.

11. Respondent shall cooperate with collection site personnel regarding biological fluid collection. Repeated reports from collection site personnel that Respondent is not cooperating regarding collection may be considered failure to comply with this Order.

12. Respondent authorizes any person or organization conducting tests on the collected samples to provide testing results to the Board.

13. **Relapse:** For the purpose of this Order, the positive finding in Respondent's biological fluid of a drug or medication not prescribed to the Respondent in accordance with this Order shall be considered proof of a relapse. In the event of a chemical dependency relapse by the Respondent, or Respondent's use of drugs or alcohol in violation of the Order, Respondent's license may be SUMMARILY SUSPENDED, pending a formal administrative hearing for revocation.

14. **Payment for Services:** Respondent shall pay for all costs associated with participating in this Probation, at time service is rendered, if required, or within 30 days of each invoice sent to Respondent.

15. **Out of State Travel and/or Unavailability at Home or Office Telephone Number:** Respondent shall provide Board Staff at least three business days advance written

1 notice of any plans to be away from the office or home when such absence would prohibit
2 Respondent from responding to an order to provide a biological fluid specimen or from
3 responding to communications from the Board. The notice shall state the reason for the
4 intended absence from home or office, and shall provide a telephone number that may be used
5 to contact Respondent.

6 16. **Examination:** Respondent shall submit to mental, physical, and medical
7 competency examinations at such times and under such conditions as directed by the Executive
8 Director to assist in monitoring compliance with the terms of this Agreement and Respondent's
9 ability to safely engage in the practice of medicine.

10 17. **Treatment:** Respondent shall submit to all medical, substance abuse, and
11 mental health care and treatment ordered by the Board or Executive Director.

12 18. **Obey All Laws:** Respondent shall obey all federal, state and local laws, and all
13 rules governing the practice of medicine in the State of Arizona.

14 19. **Interviews:** Respondent shall appear in person before the Board and or Board
15 staff for interviews upon request, upon reasonable notice.

16 20. **Address and Phone Changes, Notice:** Respondent shall immediately notify the
17 Board in writing of any change in office or home addresses and telephone numbers.

18 21. **Ceasing Practice in the State of Arizona:** In the event that Respondent
19 ceases to practice medicine in the State of Arizona, by moving out of state, failing to renew her
20 license, or maintaining an Arizona license but ceasing to practice clinical medicine or
21 administrative medicine requiring licensure, Respondent shall notify the Board that she has
22 ceased practicing in Arizona, in writing, within 10 days of ceasing to practice. In its sole
23 discretion, the Board may stay the terms of this Order until such time as the Respondent
24 resumes the practice of medicine in Arizona, or may take other action to resolve the findings of
25 fact and conclusions of law contained in this Consent Agreement and Order for Probation.

22. **Failure to Comply / Violation:** Respondent's failure to comply with the requirements of this Order shall constitute an allegation of unprofessional conduct as defined at A.R.S. § 32-1854(25); proven violations may be grounds for further disciplinary action (e.g., suspension or revocation of license).



ISSUED THIS 8th DAY OF AUGUST 2011.
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Elaine LeTarte
Elaine LeTarte, Executive Director

NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING

Any party may request a rehearing or review of this matter pursuant to A.R.S. § 41-1092.09. The motion for rehearing or review must be filed with the Arizona Board of Osteopathic Examiners within thirty (30) days. If a party files a motion for review or rehearing, that motion must be based on at least one of the eight grounds for review or rehearing that are allowed under A.A.C. R4-22-106(D). Failure to file a motion for rehearing or review within 30 days has the effect of prohibiting judicial review of the Board's decision. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a motion for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Original "Findings of Fact, Conclusions of Law and Order for Probation"
sent by certified mail, return receipt requested this 8th day of August, 2011 to:

Lucinda Michel, D.O.
Address of Record

Copies of this "Findings of Fact, Conclusions of Law and Order for Probation"
Filed/ sent this 22 day of August, 2011 to:

Arizona Board of Osteopathic Examiners
In Medicine and Surgery
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Scottsdale AZ 85258-5539

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